

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The purpose of these amendments is to update administrative rules to decrease the average statewide cost of nursing facility services to a private-pay person. The figure is revised to reflect the decrease in the cost of private-pay rates for nursing facility care in Iowa. The change is not related to rates paid by Medicaid for nursing facility care.

The figure is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the average statewide cost of nursing facility services to a private-pay person.

The Department conducted a survey of freestanding nursing facilities, hospital-based skilled facilities, and special population facilities in Iowa to update the average statewide cost for nursing facilities. The average private-pay cost of nursing facility services decreased from \$5,131.82 to \$5,057.65.

In addition, these amendments update administrative rules for the average private-pay charges for nursing facility care, which are used to determine the disposition of the income of a medical assistance income trust (MAIT). These amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department’s survey for average statewide private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey, since recipients are allowed to use the average cost of the specialized care.

This decrease in the average statewide private-pay charges at nursing facilities may result in fewer individuals who qualify for medical assistance with Miller trusts. However, very few, if any, individuals in nursing facilities will have monthly income between the old and new amounts.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 0691C** on April 17, 2013. The Department received no comments from the public concerning the Notice. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on June 12, 2013.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2013. The normal effective date can be waived since the amendments confer a benefit on the public. Specifically, these amendments decrease the statewide average cost of nursing facility services to a private-pay person.

These rules do not contain waiver provisions because everyone should be subject to the same amounts set by this rule making. Individuals may request an exception pursuant to the Department’s general rule on exceptions to policy at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective July 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual’s spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period

from July 1, ~~2012~~ 2013, through June 30, ~~2013~~ 2014, this average statewide cost shall be ~~\$5,131.82~~
\$5,057.65 per month or ~~\$168.81~~ \$166.37 per day.

ITEM 2. Amend subparagraph **75.24(3)“b”(1)** as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,762~~ \$4,642
per month.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.